

**Remarks**

The application submitted herewith is substantially identical to U.S. Patent Application Serial No. 10/309,587 filed December 4, 2002. With this preliminary amendment, the specification has been amended to update the priority data. No new matter has been added. In addition, claim 1 has been cancelled without prejudice and new claims 2 through 40 have been added. Support for the new claims can be found throughout the specification. For example, support for independent claim 2 can be found in the description of saturation mutagenesis beginning on page 58 of the application and in Example 5 on page 96 which describe the use of oligonucleotides, including codon-varied oligonucleotides, to produce recombinant polynucleotides by hybridization of overlapping oligonucleotides followed by elongation. The use of chemical synthesis to produce codon varied oligonucleotides is disclosed on page 80. Dependent claim 3 is supported by the above cited pages in combination with pages 61 and 62 which disclose screening and recombination of the recombinant polynucleotides. Support for dependent claims 4 and 5 are found throughout the specification which describes methods of recombining homologous and non-homologous polynucleotides. Support for dependent claims 6 through 12 are supported by the disclosure of synthetic oligonucleotides since these claims recite steps inherent in oligonucleotide synthesis. The remaining dependent claims are supported as described above. Applicant notes that support for the claims is not limited to the above cited pages which are provided only as an example of the support contained in the specification. If requested, Applicant can provide additional citations to support specific elements of the claims.

**Sequence Listing**

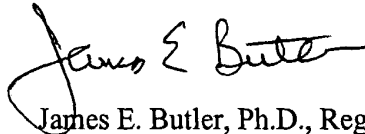
Applicant submits herewith a paper copy of the Sequence Listing for the above-identified application. The paper copy of the Sequence Listing in this application is identical to the computer readable copy of the Sequence Listing filed in U.S. Patent Application Serial No. 10/309,587 filed December 4, 2002. In accordance with 37 C.F.R. § 1.821(e), please use the computer readable form of that application as the computer readable form for the instant

application. It is understood that the Patent and Trademark Office will make the necessary changes in the application number and filing date of the instant application.

U.S. Patent No. 6,426,224 B1

Applicant submits herewith U.S. Patent No. 6,436,675 B1, issued August 20, 2002 entitled "Use of Codon-Variied Oligonucleotide Synthesis for Synthetic Shuffling" which issued from U.S. Patent Application No. 09/408,393 filed September 28, 1999, assigned to Maxygen, Inc. on its face. Applicant respectfully asserts that claims 2-40 added herein claim the same or substantially the same subject matter as claims 1-39 of U.S. Patent No. 6,436,675 B1. Applicant notes that new claims 2-40 are now pending in the instant application as of its filing date and that this date is within the time limit set forth in 35 U.S.C. § 135(b).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James E. Butler". The signature is fluid and cursive, with the first name "James" being more prominent.

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